

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

GENE P. KELLY,	:	CASE NO. _____
	:	
Plaintiff,	:	(Removed from the Lucas County, Ohio
	:	Court of Common Pleas, Case No. G-4801-
	:	CI-0202002996-000)
v.	:	
	:	
	:	Judge _____
SHELLPOINT MORTGAGE	:	
SERVICING,	:	
	:	
Defendant.	:	

NOTICE OF REMOVAL

Defendant NewRez LLC¹ d/b/a Shellpoint Mortgage Servicing (“Shellpoint” or “Defendant”), through counsel and pursuant to the provisions of 28 U.S.C. §§ 1332, 1441, and 1446, hereby gives notice of the removal of the case styled as, “*Gene P. Kelly EL v. Shellpoint Mortgage Servicing*,” and having Case No. G-4801-CI-0202002996, which is currently pending in the Court of Common Pleas for Lucas County, Ohio, to the United States District Court for the Northern District of Ohio, Western Division. As grounds for removal, Shellpoint states as follows:

INTRODUCTION

1. This Court has jurisdiction over this action under 28 U.S.C. §§ 1332, 1441, and 1446 because the parties are diverse and Plaintiff Gene P. Kelly (“Plaintiff”) has demanded judgment in excess of \$75,000. The action is therefore removable.

¹ Identified in the Complaint as “Shellpoint Mortgage Servicing.”

BACKGROUND

2. Plaintiff initiated this civil action *pro se* in the Court of Common Pleas for Lucas County, Ohio on or about September 9, 2020 (the “State Action”). Copies of the Summons and Complaint filed in the State Action are attached hereto as **Exhibit 1**.

3. Shellpoint was served with the Summons and Complaint on September 16, 2020.

4. The Complaint appears to allege claims for fraud and the failure to respond to a request for information relating to Plaintiff’s mortgage loan.

5. No proceedings have occurred in the State Action, and no other pleadings, process, or orders have been served.

DIVERSITY JURISDICTION AND VENUE

6. This action falls under the Court’s original jurisdiction under 28 U.S.C. § 1332, and is one that may be removed to this Court based on diversity of citizenship under 28 U.S.C. §§ 1441 and 1446.

7. In the Complaint, Plaintiff indicates that he is a citizen of Ohio.

8. Shellpoint is not a citizen of Ohio. Shellpoint is a Delaware limited liability company. The parent company of Shellpoint is Shellpoint Partners LLC, a Delaware limited liability company. The parent companies of Shellpoint Partners LLC are NRM Acquisition LLC (99%) and NRM Acquisition II LLC (1%), both of which are Delaware limited liability companies. The parent company of NRM Acquisition LLC and NRM Acquisition II LLC is New Residential Mortgage LLC, a Delaware limited liability company. The parent company of New Residential Mortgage LLC is New Residential Investment Corp., a Delaware corporation with its principal place of business in New York. Shellpoint is therefore a citizen of Delaware and New York for purposes of diversity jurisdiction.

9. Because Plaintiff is not a citizen of the same state as Shellpoint, the parties are completely diverse. *See* 28 U.S.C. § 1332(a); and *Wis. Dep't of Corrections v. Schacht*, 524 U.S. 381, 388 (1998).

10. The amount in controversy requirement is also met in this case. In his Complaint, Plaintiff seeks both compensatory and punitive damages. Although the compensatory damages are not specified, Plaintiff requests punitive damages in the amount of \$2,000,000.00. *See Exhibit 1*, ¶¶ 1 and 2. Plaintiff's demand for punitive damages satisfies the amount in controversy requirement. *See Everett v. Verizon Wireless, Inc.*, 460 F.3d 818, 827 (6th Cir. 2006); *Bower v. Am. Cas. Co.*, No. 99-4102, 2001 U.S. App. LEXIS 18053, *8-*9 (6th Cir. Aug. 6, 2001).

11. Although Shellpoint denies liability to Plaintiff for any of the damages sought in the Complaint, based on the foregoing, the amount placed in controversy by Plaintiff's Complaint exceeds \$75,000.00, exclusive of interest and costs. Accordingly, removal of this action to this Court based on diversity jurisdiction is proper under 28 U.S.C. § 1332.

12. The United States District Court for the Northern District of Ohio, Western Division, is the District Court for the district encompassing the Lucas County Court of Common Pleas where the State Action is currently pending. *See* 28 U.S.C. § 115(a)(1). As such, venue for removal is proper in this district under 28 U.S.C. § 1441(a).

PROCEDURAL REQUIREMENTS

13. Shellpoint was served with the Summons and Complaint on September 16, 2020. Consequently, this Notice of Removal is timely as it is being filed within thirty (30) days after Shellpoint's receipt of a copy of the initial pleading setting forth the removable claim. *See* 28 U.S.C. § 1441(b).

14. Shellpoint is the only named defendant in the Complaint. Therefore, consent is not required from any other party for the removal of this action.

15. In accordance with 28 U.S.C. § 1446(d), Shellpoint will promptly serve a copy of this Notice of Removal on Plaintiff and will file a copy of the Notice of Removal with the Clerk of Courts for the Lucas County Court of Common Pleas.

16. Shellpoint expressly reserves the right to state additional grounds for removal and to provide such additional evidence as may be required to support the grounds asserted in this Notice of Removal.

CONCLUSION

17. By this Notice of Removal and the associated attachments, Shellpoint does not waive any objections it may have to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Shellpoint reserves its right to raise all defenses and objections to Plaintiff's claims after the action is removed to this Court.

WHEREFORE, Shellpoint respectfully removes this action from the Court of Common Pleas, Lucas County, Ohio to this Court.

Respectfully submitted,

/s/ Katherine A. Rasmussen
Nathan H. Blaske (0076460)
Katherine A. Rasmussen (0093928)
DINSMORE & SHOHL LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202
Phone: (614) 628-6982
Fax: (614) 628-6890
Email: nathan.blaske@dinsmore.com
katherine.rasmussen@dinsmore.com
*Counsel for Defendant, NewRez LLC d/b/a
Shellpoint Mortgage Servicing*

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October 2020, a copy of the foregoing Notice of Removal was filed electronically via the Court's CM/ECF system, and the undersigned served a copy by U.S. mail:

Gene P. Kelly
3208 Elmont Road
Toledo, OH 43615

/s/ Katherine A. Rasmussen

Katherine A. Rasmussen

16979076.1